HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT APPEAL No. 815 of 2007

Between:

The Singareni Collieries Co., Ltd.,
Rep., by its Director (Personnel),
Kothagudem, Khammam District
and three others.

… Appellants

AND

Vanga Shankar

… Respondent

: JUDGMENT :

Counsel for the appellants : Shri L.N.R. Rajeshwar Rao for
Shri K. Srinivasa Murthy

Counsel for the respondents : Shri K. Vasudeva Reddy

Dated: 04th October, 2007

Per G.S. SINGHVI, CJ.

This appeal is directed against order dated 17.04.2007 passed by the learned Single Judge in Writ Petition No.26608 of 1997 whereby he quashed order dated 04.09.1997 issued by Director (Technical), Singareni Collieries Company Limited, reverting the writ petitioner (the respondent herein) from the post of Mining Sardar Grade-B to Grade-C.

The respondent herein was appointed in the service of appellant No.1 company in 1970 as Tunnel Mazdoor. In the course of service, he was promoted as Shot Firer, Mining Sirdar Grade-C and then as Mining Sirdar Grade-B. On 10.04.1997, a departmental enquiry was initiated against the respondent on the charge that due to his negligence, an accident had occurred on 4.4.1997 in which Shri Chappidi Bondyalu (Coal Cutter) was injured and died after 13 days. The enquiry officer submitted report dated 19.5.1997 with the finding that the charges leveled against the delinquent are proved. A copy of the enquiry report was supplied to the respondent, who submitted representation dated 23.6.1997. He controverted the findings and conclusions recorded by the enquiry officer. However, without considering the points taken by the respondent in his representation and by using the stock phrase “not satisfactory”, Director (Technical) of appellant No.1 passed order dated 4.9.1997 whereby he reverted the respondent to the post of Mining Sirdar Grade-C.

The respondent challenged the order of punishment in Writ Petition No.26608 of 1997 by contending that his reversion to the post of Mining Sirdar Grade-C amounts to double jeopardy because before the passing of order dated 4.9.1997, Superintendent of Mines of

appellant No.1 had imposed the punishment of withdrawing his authorization to work as Mining Sirdar Shot Firer for one month from 5.6.1997 to 4.7.1997 and he was also denied underground and charge allowance. Another plea taken by the respondent was that the order of punishment is vitiated due to violation of the rules of natural justice inasmuch as the reply filed by him was discarded by the disciplinary authority without assigning any reason and that the finding of guilty recorded against him is based on total misreading of evidence and is perverse.

In the counter filed on behalf of the appellants, it was pleaded that the order of reversion was passed after following the procedure prescribed under Coal Mines Regulations, 1957 and the Disciplinary Rules. It was further pleaded that the findings recorded by the enquiring and disciplinary authorities on the charges leveled against the petitioner are based on correct appreciation of evidence.

The learned Single Judge rejected the respondent's plea that the order of reversion amounts to double jeopardy by observing that withdrawal of his authorization to work as Mining Sirdar for a period of one month and denial of underground and charge allowance does not constitute a punishment and the non-petitioners were not precluded from taking disciplinary action in accordance with the Standing Orders. He then considered the issue of violation of the rules of natural justice and held that the order of punishment shows total non-application of mind by the disciplinary authority and does not satisfy the requirement of a speaking order. Accordingly, he quashed the order impugned in the writ petition. For the sake of reference, the relevant portions of the order, which is subject matter of challenge in this appeal, are extracted below:

"In the impugned order, the particulars as to what exactly is the evidence led before the Enquiry Officer, how the charges framed against the petitioner are proved and how the evidence was re-considered by the Disciplinary Authority are not at all available. This itself shows that the

Disciplinary Authority has not applied its mind while passing the impugned order reverting the petitioner from Grade B to Grade C. The disciplinary Authority passed the impugned order in a mechanical way without any reference as to the evidence recorded by the Enquiry Officer and under what circumstances the petitioner was held to be guilty of the charges.

Under those circumstances, I am of the opinion that the impugned order is bereft of details and reasons requiring to hold the petitioner guilty of the charges and apart from that, it is not in accordance with the procedure as required under law and therefore, the same is liable to be set aside."

We have heard learned counsel for the parties and perused the record. Though the order passed by the disciplinary authority runs into three pages, the rejection of the respondent's representation is not supported by any reason whatsoever. This is evinced from paragraph 6 of the order dated 4.9.1997, which is extracted below:

"6. You have submitted a representation dt.23.6.1997, which has been examined and found to be not satisfactory."

Since the order of punishment does not, at all, reflect application of mind by the disciplinary authority and no reason has been assigned for discarding the representation of the respondent, the conclusion recorded by the learned Single Judge that the same does not satisfy the requirement of a speaking order cannot be faulted. Rather, the said conclusion is inconsistent with the law laid down by the Supreme Court in **Harinagar Sugar Mills v. Shayam Sundar**[1], **M.P.Industries Limited v. Union of India**[2], **Bhagat Raja v. Union of India**[3], **Mahavir Prasad Santoshkumar v. State of U.P.**[4], **Travancore Rayons v. UOI**[5], **Messrs Ajanta Industries v. Central Board of Direct Taxes, New Delhi**[6], **Messrs Siemens Engineering & Manufacturing Company v. Union of India**[7], **S.N. Mukherjee v. Union of India**[8], **Charan Singh v. Healing Touch Hospital**[9] **State of Punjab v. Bagh Singh**[10], **State of Orissa v. Dhaniram Luhar**[11], **State of Rajasthan v. Sohan Lal**[12], **Cyril Lasrado v.**

Juliana Maria Lasrado[13], **Mangalore Ganesh Beedi Works v. CIT**[14] and **Manorama Sachan v. Lucknow Development Authority**[15].

In **Testeels Limited v. N.M. Desai, Conciliation Officer and another**[16], a Full Bench of the Gujarat High Court made a lucid exposition of law on the subject and we can do no better than to reproduce the relevant paragraphs of that judgment, which are as under:

"There are two strong and cogent reasons why we must insist that every quasi-judicial order must disclose reasons in support of it. The necessity of giving reasons flows as a necessary corollary from the rule of law which constitutes one of the basic principles of our constitutional set-up. Our Constitution posits a welfare State in which every citizen must have justice-social, economic and political and in order to achieve the ideal of welfare State, the State has to perform several functions involving acts of interferences with the free and unrestricted exercise of private rights. The State is called upon to regulate and control the social and economic life of the citizen in order to establish socio-economic justice and remove the existing imbalance in the socio-economic structure. The State has, therefore, necessarily to entrust diverse functions to administrative authorities which involve making of orders and decisions and performance of acts affecting the rights of individual members of the public. In exercise of some these functions, the administrative authorities are required to act judicially. Now what is involved in a judicial process is well settled and as pointed out by Shal J. in Jaswant Sugar Mill's case, AIR 1963 SC 677 supra, a quasi judicial decision involves the following three elements:

(1) It is in substance a determination upon investigation of a question by the application of objective standards to facts found in the light of pre-existing legal rules;

(2) It declares rights or imposes upon parties obligations affecting their civil rights; and

(3) The investigation is subject to certain procedural attributes contemplating an opportunity of presenting its case to a party, ascertainment of facts by means of material if a dispute be on question of fact, and if the dispute be on question of law, on the presentation, of legal argument, and a decision resulting in the disposal of the matter on findings based upon those

questions of law and fact.

Another reason of equal cogency which weighs with us in spelling out the necessity for giving reasons is based on the power of judicial review which is possessed by the High Court under Article 226 and the Supreme Court under Article 32. The High Court under Article 226 and the Supreme Court under Article 32 have the power to quash by certiorari a quasi-judicial order made by an administrative officer and this power of review exercisable by issue of certiorari can be effectively exercised only if the order is a speaking order and reasons are given in support of it. If no reasons are given, it would not be possible for the High Court or the Supreme Court exercising its power of judicial review to examine whether the administrative officer has made any error of law in making the order. It would be the easiest thing for an administrative officer to avoid judicial scrutiny and correction by omitting to give reasons in support of his order. The High Court and the Supreme Court would be powerless to interfere so as to keep the administrative officer within the limits of the law. The result would be that the power of judicial review would be stultified and no redress being available to the citizen, there would be insidious encouragement to arbitrariness and caprice. The power of judicial review is a necessary concomitant of the rule of law and if judicial review is to be made an effective instrument for maintenance of the rule of law, it is necessary that administrative officers discharging quasi-judicial functions must be required to give reasons in support of their orders so that they can be subject to judicial scrutiny and correction."

Notwithstanding the above conclusion, we are convinced that the order under challenge calls for modification because, while quashing the order of punishment, the learned Single Judge did not give liberty to the disciplinary authority to pass fresh order after considering the representation made by the respondent in response to the show cause notice. In our considered view, the respondent's case does not have any extraordinary feature, which could justify a departure from the normal rule that while quashing an order of punishment by issuing a writ of certiorari, the Court must leave it open to the competent authority to pass appropriate order in accordance with law.

In the result, the appeal is dismissed with the modification that the disciplinary authority shall be free to pass fresh order in accordance with law in relation to the action taken against the

respondent.

Since the matter is more than ten years old, we direct that the disciplinary authority to afford an opportunity of personal hearing to the respondent, consider the record of enquiry including representation dated 23.6.1997 made by him and then pass a speaking order.

G.S. SINGHVI, CJ.

C.V. NAGARJUNA REDDY, J.

Date: 04.10.2007
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[1] AIR 1961 SC 1669
[2] AIR 1966 SC 671
[3] AIR 1967 SC 1606
[4] AIR 1970 1302
[5] AIR 1971 SC 862
[6] AIR 1976 SC 437
[7] AIR 1976 SC 1785
[8] AIR 1990 SC 1984
[9] (2000) 7 SCC 668
[10] (2004) 1 SCC 547
[11] (2004) 5 SCC 568
[12] (2004) 5 SCC 573
[13] (2004) 7 SCC 431
[14] (2005) 5 SCC 75
[15] (2005) 9 SCC 425
[16] AIR 1970 GUJARAT 1